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YUROK TRIBE

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September 30, 2011

Joe Grindstaff
Executive Officer
Delta Stewardship Council
980 Ninth St., Suite 1500
Sacramento, CA 958814

RE: Yurok Tribe Comments on Fifth Staff Draft of the Delta Plan

The Yurok Tribe appreciates the opportunity to provide comments as you continue development of the Delta Plan and looks forward to continued consultation with the Delta Stewardship Council.

The Trinity River is a Delta Tributary Watershed under California Water Code Section 78647.4(b) and is shown in Figure 1 of the Delta Plan. Figure 1 states that the Delta Plan “may affect” other areas of California, including the Trinity River. However, it is clear from the legislative and administrative record that the diversion of Trinity River water is limited to water that is surplus to the needs of the Trinity River basin, which includes the amount of water necessary to meet the federal government’s Tribal Trust obligations to restore and protect the fishery resources of the Yurok and Hoopa Valley Tribes. Therefore, the Delta Plan should contain a policy stating that meeting the co-equal goals of water supply reliability and ecosystem restoration shall not adversely impact the Trinity River, as defined by meeting the flow requirements of the Trinity River Record of Decision¹ and meeting Trinity River temperature objectives contained in the “Water Quality Control Plan for the North Coast Region”² by the North Coast Regional Water Quality Control Board.

The Yurok Tribe believes the Delta Plan should provide clear provisions to ensure that meeting the co-equal goals of water supply reliability and ecosystem restoration shall not adversely affect the Trinity River specifically by providing for:

1. Exclusion from any water budget developed for the Delta Plan of the fishery restoration flows established in the December 2000 Trinity River Mainstem Fishery Restoration Record of Decision (ROD) and the 50,000 acre-feet identified in the second provision of the 1955 Act.
2. Compliance with the flow requirements and restoration prescriptions of the ROD.

¹ See http://www.trrp.net/?page_id=72, accessed 9/14/11.

² See “Water Quality Control Plan for the North Coast Region” Table 3-1, page 3-8.00, footnote 5, located at http://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/083105-bp/04_water_quality_objectives.pdf, accessed 9/14/11.

3. Compliance with Trinity River temperature objectives contained in the "Water Quality Control Plan for the North Coast Region" by the North Coast Regional Water Quality Control Board.

4. Assurances that all operating plans for the CVP and State Water Projects recognize that 50,000 acre-feet of water developed and stored in the Trinity River Division is required to be managed for release on a schedule that makes it available for any beneficial uses in the Trinity/Klamath basin, including non-consumptive instream flows for fishery purposes.

5. Segregation and management of the 50,000 acre-feet in a manner that does not interfere with or diminish flow releases identified in the ROD.

6. Requirements in the Delta Plan that pursuant to section 3404(c)(2) of the CVPIA every new, interim or renewed CVP water service or repayment contract will include provisions by which CVP water and power contractors expressly agree that the Trinity Division will provide: (a) the separate amounts and independent management and use of the ROD flow releases and the 50,000 acre-feet for the Trinity basin; and (b) pay the cost of Trinity River fishery restoration pursuant to section 3406(b)(23) of the CVPIA.

The Yurok Tribe requests a response to this letter and continued involvement and consultation during development of the Delta Plan. We also request the Delta Stewardship Council continue and expand outreach and seek input from public and tribal stakeholders in Northern California communities during the Delta Plan development process.

Thank you for this opportunity to express our concerns and provide tribal input to the Delta Stewardship Council.

Respectfully,

A handwritten signature in black ink, appearing to read "Thomas O'Rourke", with a stylized flourish at the end.

Thomas O'Rourke
Chairman Yurok Tribal Council